

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CR. NO. 2:05cr137-F
)	
GEORGE DAVID SALUM III)	

GOVERNMENT’S SUPPLEMENTAL REQUEST TO CHARGE:
DELIBERATE IGNORANCE

COMES NOW the United States of America, by and through its attorneys, Gregory R. Miller, United States Attorney for the Northern District of Florida, and the undersigned Assistant United States Attorney, and moves this Honorable Court to charge the jurors as follows:

DELIBERATE IGNORANCE
(AS PROOF OF KNOWLEDGE)

When knowledge of the existence of a particular fact is an essential part of an offense, such knowledge may be established if the Defendant is aware of a high probability of its existence, unless the Defendant actually believes that it does not exist.

So, with respect to the issue of the Defendant’s knowledge in this case, if you find from all the evidence beyond a reasonable doubt that Defendant actually knew that the MPD personnel file and photograph of David DeJohn and NCIC/ACJIS database criminal histories and backgrounds of prospective government witnesses would be provided to Carmichael and/or his counsel for use in attempting to impeach or discredit DeJohn and to intimidate DeJohn and other prospective government witnesses, and deliberately and consciously tried to avoid in order to be able to say that he did not know how the information was intended to be used, you may treat such deliberate avoidance of positive knowledge as the equivalent of knowledge.

In other words, you may find that the Defendant acted “knowingly” if you find beyond a reasonable doubt either: (1) that the Defendant actually knew that the MPD personnel file and photograph of David DeJohn and NCIC/ACJIS database criminal histories and backgrounds of prospective government witnesses would be provided to Carmichael and/or his counsel for use in attempting to impeach or discredit DeJohn and to intimidate DeJohn and other prospective government witnesses, or (2) that he deliberately closed his eyes to what he had every reason to believe was the fact.

I must emphasize, however, that the requisite proof of knowledge on the part of the Defendant cannot be established by merely demonstrating that the Defendant was negligent, careless, or foolish.

Reference: Eleventh Circuit Pattern Jury Instructions - Criminal, *Spec. Instr. No. 8*. Annotations and citations to authority omitted.

RESPECTFULLY SUBMITTED this 10th day of November, 2005.

GREGORY R. MILLER
United States Attorney

/s/Dixie A. Morrow
DIXIE A. MORROW
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CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing GOVERNMENT'S SUPPLEMENTAL REQUEST TO CHARGE -DELIBERATE IGNORANCE (AS PROOF OF KNOWLEDGE) upon the defendant by electronic filing with and noticing by the Clerk of Court with notice delivery to his counsel of record: Julian L. McPhillips, Jr., McPHILLIPS SHINBAUM LLP, Post Office Box 64, Montgomery, Alabama 36101.

THIS 10th day of November, 2005.

/s/Dixie A. Morrow
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